



IN THE
Supreme Court of the United States

OCTOBER TERM, A. D. 1941.

No. 706

CITY OF CHICAGO, A MUNICIPAL CORPORATION, BOARD
OF HEALTH OF THE CITY OF CHICAGO,
DR. ROBERT A. BLACK, HEALTH COMMISSIONER AND
ACTING PRESIDENT OF BOARD OF HEALTH OF THE CITY OF
CHICAGO,

Petitioners,

vs.

FIELDCREST DAIRIES, INC.,

Respondent.

**MOTION BY THE STATE OF ILLINOIS, AS AMICUS
CURIAE, FOR LEAVE TO PARTICIPATE IN THE
ORAL ARGUMENT OF THE ABOVE ENTITLED
CAUSE.**

GEORGE F. BARRETT,
*Attorney General of the State of
Illinois,
Springfield, Illinois,
Attorney for Amicus Curiae.*

Albert E. Hallett,
*Assistant Attorney General,
Of Counsel.*

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And now comes the STATE OF ILLINOIS, as *amicus curiae*,
by GEORGE F. BARRETT, its Attorney General, and respect-
fully shows unto this Honorable Court the following:

1. That there is at this time pending and undetermined
in this Court a certain cause entitled *City of Chicago, a
Municipal Corporation, et al., Petitioners v. Fieldcrest
Dairies, Inc., Respondent*, October 1941 Term, No. 706.

2. That perhaps the most important single issue which
must necessarily be determined by this Court in its decision
of the said case is whether or not the City of Chicago, a
municipal corporation, located entirely within and being
but a creature of the State of Illinois, may, after the enact-
ment by the General Assembly of the State of Illinois of

an act clearly demonstrating that the public policy of the State is to authorize and legalize the use of "single service containers" in the sale and distribution of pasteurized milk throughout the entire State, thereafter enforce a local ordinance prohibiting entirely the use of such containers within the corporate limits of the City of Chicago.

3. That the issue above referred to involves a matter in which the State of Illinois, in its sovereign capacity, is not only vitally concerned but is desirous of sustaining the contention that such an ordinance is necessarily invalid as contrary to the public policy of the State respecting this same question and as limiting the applicability throughout the State of an act of the General Assembly.

4. That the State of Illinois has, simultaneously with the filing of this motion, filed with the Clerk of this Court forty (40) copies of a printed brief as *amicus curiae*, and has served copies of the said brief and of this motion upon the attorneys for the various parties to the above entitled cause.

5. That the Attorney General of the State of Illinois is of the opinion that this State's participation in the oral argument of the above entitled cause might assist this Court in its consideration of the said cause and might serve to clarify the issues before the Court in this litigation.

6. That counsel for the respondent have agreed to allocate twenty (20) minutes of the hour to which they would otherwise be entitled, to the State of Illinois for argument as such *amicus curiae*, provided such an arrangement is expressly sanctioned by order of this Court.

7. That the oral argument of the said cause has been set for Monday, March 30, A. D. 1942, and that it appears as the second case on the call for that day.

WHEREFORE, the STATE OF ILLINOIS, as *amicus curiae* herein, moves for the entry of an order granting leave to

it to participate in the oral argument of the above entitled cause, and allocating to it twenty (20) minutes out of the hour to which counsel for the respondent would otherwise be entitled.

George T. Baur
 Attorney General of the State of
 Illinois, Amicus Curiae.

AFFIDAVIT.

STATE OF ILLINOIS, }
 COUNTY OF COOK. } ss.

ALBERT E. HALLETT, being first duly sworn, on his oath deposes and says that he is a member of the bar of this Court and Assistant Attorney General of the State of Illinois; that in such capacity he is in personal charge of the handling of the above entitled matter before this Court insofar as the said State is concerned; that he has read the foregoing motion; and that the facts therein set forth are true.

Albert E. Hallett

Subscribed and sworn to before me this 26th day of March, A. D. 1942.

Frances B. Halloran
 Notary Public, Cook County, Illinois.